

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

**MELVIN PARKER,**

Plaintiff,

**v.**

**N. WEST,**

Defendant.

2:22-cv-2015 CSK P

**~~PROPOSED~~ ORDER AND REVISED  
SCHEDULING ORDER**

Plaintiff is a state prisoner proceeding pro se. On May 30, 2025, defendant filed a fourth motion to modify the discovery and scheduling order in light of continued difficulties in scheduling the deposition of inmate witness Durrell Puckett. (ECF No. 70.) As discussed below, defendant's motion is granted.

I. GOVERNING STANDARDS

"The district court is given broad discretion in supervising the pretrial phase of litigation." Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 607 (9th Cir. 1992) (citation and internal quotation marks omitted). Rule 16(b) provides that "[a] schedule may be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). "The schedule may be modified 'if it cannot reasonably be met despite the diligence of the party seeking the extension.'"

1 Zivkovic v. Southern California Edison Co., 302 F.3d 1080, 1087 (9th Cir. 2002) (quoting  
2 Johnson, 975 F.2d at 607).

## 3 II. BACKGROUND

4 The initial discovery and scheduling order (ECF No. 55) has been modified three times.  
5 (ECF Nos. 60, 63, 69.) On December 26, 2024, discovery was reopened for the limited purpose  
6 of deposing Mr. Puckett, and the pretrial motions deadline was stayed. (ECF No. 63.) On April  
7 21, 2025, defendant was granted a forty day extension of time to depose incarcerated witness  
8 Durrell Puckett and file any necessary motion to compel his compliance with a subpoena. (ECF  
9 No. 69.)

10 On May 30, 2025, defendant filed a fourth motion to modify the discovery and scheduling  
11 order. Defendant noticed and subpoenaed Mr. Puckett's deposition for May 19, 2025. (ECF No.  
12 70-1 at 1-2.) However, on May 19, 2025, at 8:30 a.m., defense counsel was informed that  
13 plaintiff had been placed in a mental health crisis bed and therefore would be unable to attend the  
14 video deposition. (Id. at 3.) At 9:00 a.m., Mr. Puckett, defense counsel, and a certified shorthand  
15 reporter appeared via video conference for Mr. Puckett's deposition, and defense counsel  
16 informed Mr. Puckett that the deposition had to be rescheduled due to plaintiff's inability to  
17 attend the deposition. (Id.) Defense counsel is in the process of coordinating a new deposition  
18 date and anticipates noticing Mr. Puckett's deposition for June 16, 2025. (Id. at 8.)

## 19 III. DISCUSSION

20 Defendant seeks an additional fourteen days to depose Mr. Puckett and file any necessary  
21 second motion to compel. In addition to the usual difficulties involved in coordinating a  
22 deposition of an inmate with the attendance of another inmate at a different prison, the record  
23 demonstrates defendant has had continued difficulties in scheduling Mr. Puckett's deposition due  
24 to Mr. Puckett's frequent transfers to different prisons. (ECF No. 68-1 at 6.) In addition, four  
25 days before Mr. Puckett's May 19, 2025 deposition, defense counsel was notified of plaintiff's  
26 transfer to a different prison. (ECF No. 70-1 at 3.) Despite defense counsel's successful  
27 coordination of plaintiff's attendance at the May 19, 2025 deposition at his new institution, the  
28 deposition could not take place due to plaintiff's unexpected housing in the mental health crisis

1 bed on May 18, 2025. (Id.; ECF No. 70-2 at 2.) The Court finds that defendant has diligently  
2 attempted to schedule Mr. Puckett's deposition and has shown good cause for this fourth  
3 extension of the discovery deadline.

4 **ORDER**

5 Good cause appearing, IT IS HEREBY ORDERED that defendant's fourth motion (ECF  
6 No. 70) to modify the discovery and scheduling orders (ECF Nos. 55, 60, 63, 69) is granted.  
7 Defendant is granted a fourteen day extension of time to depose incarcerated witness Durrell  
8 Puckett and file any necessary motion to compel his compliance with a subpoena, up to and  
9 including June 19, 2025. No other deadlines are affected by this order.

10 Dated: June 3, 2025

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13 CHI SOO KIM  
14 UNITED STATES MAGISTRATE JUDGE

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